

<b>FP07-05 Executive Summary</b>	
<b>General Description</b>	Requests that drift gillnets be permitted as a legal gear type for Federally qualified subsistence users in the Togiak River. <i>[Submitted by: Twin Hills Village Council].</i>
<b>Proposed Regulation</b>	<p><b>Bristol Bay Area – Salmon</b></p> <p>§ __.27(i)(5)(vii) <i>Outside the boundaries of any district, <b>unless otherwise specified</b>, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.</i></p> <p><i>(A) You may also use to take salmon in the Togiak River, a drift gillnet not greater than 10 fathoms in length and 15 feet in depth.</i></p>
<b>Bristol Bay Regional Council Recommendation</b>	
<b>Staff Recommendation</b>	<p><b>Support with modification</b> to include that the use of drift gillnets are restricted to inland waters of the Togiak River, one river mile upstream from the mouth of the river. The modified proposed regulation should read:</p> <p><b>Bristol Bay Area – Salmon</b></p> <p>§ __.27(i)(5)(vii) <i>Outside the boundaries of any district, <b>unless otherwise specified</b>, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.</i></p> <p><i>(A) You may also use drift gillnets not greater than 10 fathoms in length and 2.5 fathoms deep to take salmon in the Togiak River in the first river mile upstream from the mouth of the river.</i></p>
<b>ADF&amp;G Comments</b>	<b>ADF&amp;G has not taken a position on this proposal at this time</b> , but offers preliminary comments ( <i>see comments following analysis</i> ).
<b>Written Public Comments</b>	<b>None.</b>

## **DRAFT STAFF ANALYSIS FP07-05**

### **ISSUES**

FP07-05, submitted by the Twin Hills Village Council, requests that drift gillnets be permitted as a legal gear type for Federally qualified subsistence users in the Togiak River.

### **DISCUSSION**

The proposed regulation would allow the use of drift gillnets by Federally qualified subsistence users in the Togiak River. The proponent is seeking this regulatory change to allow subsistence users to harvest fish more efficiently.

#### **Existing Federal Regulation**

##### **Bristol Bay Area – Salmon**

\_\_\_\_.27(c)(4)(vii) *Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.*

\_\_\_\_.27(i)(5)(vii) *Outside the boundaries of any district, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

#### **Proposed Regulation**

##### **Bristol Bay Area – Salmon**

§\_\_\_\_.27(i)(5)(vii) *Outside the boundaries of any district, **unless otherwise specified**, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

***(A) You may also use to take salmon in the Togiak River, a drift gillnet not greater than 10 fathoms in length and 15 feet in depth.***

#### **Existing State Regulation:**

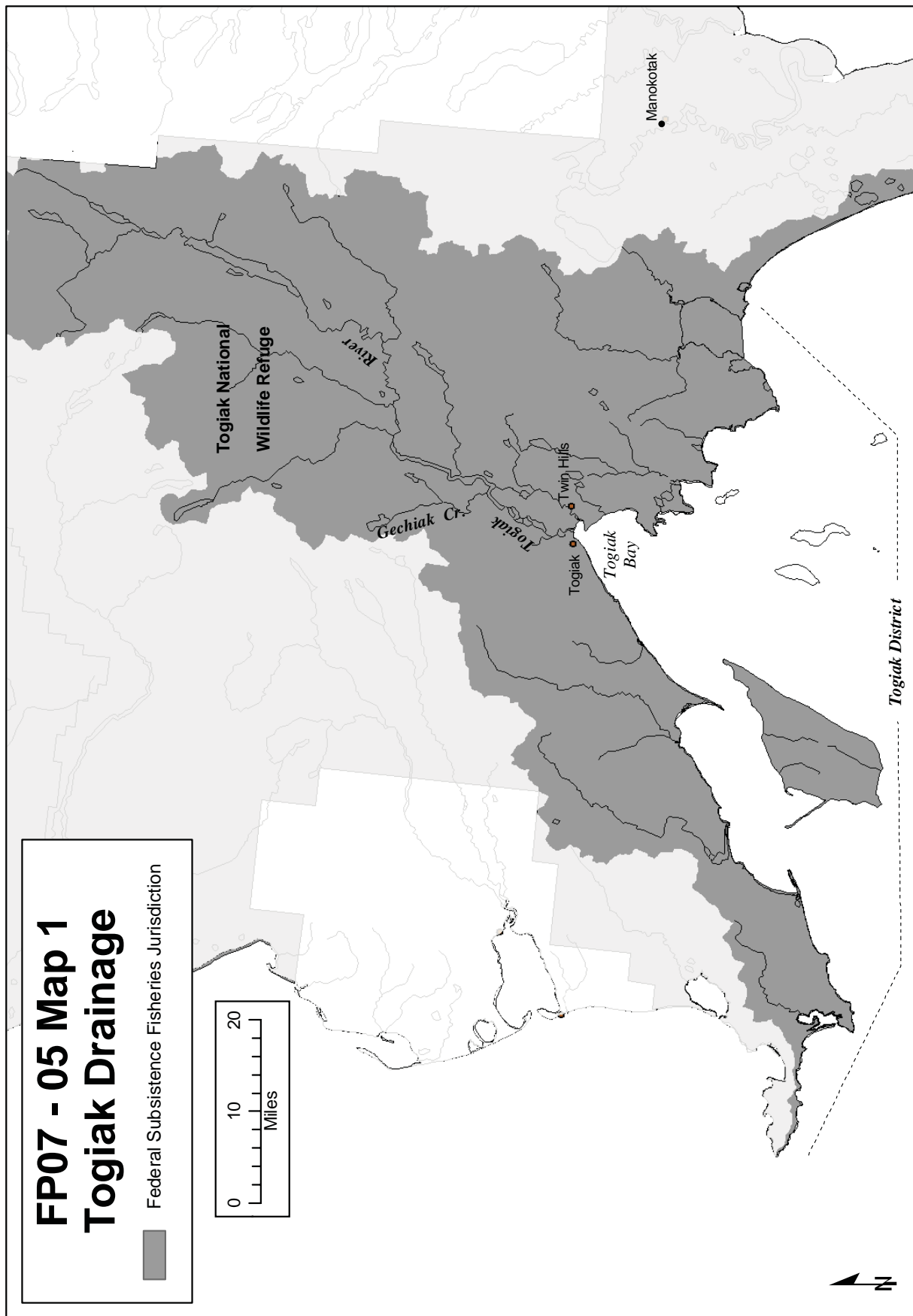
*5 AAC 01.320. Lawful Gear and Gear Specifications*

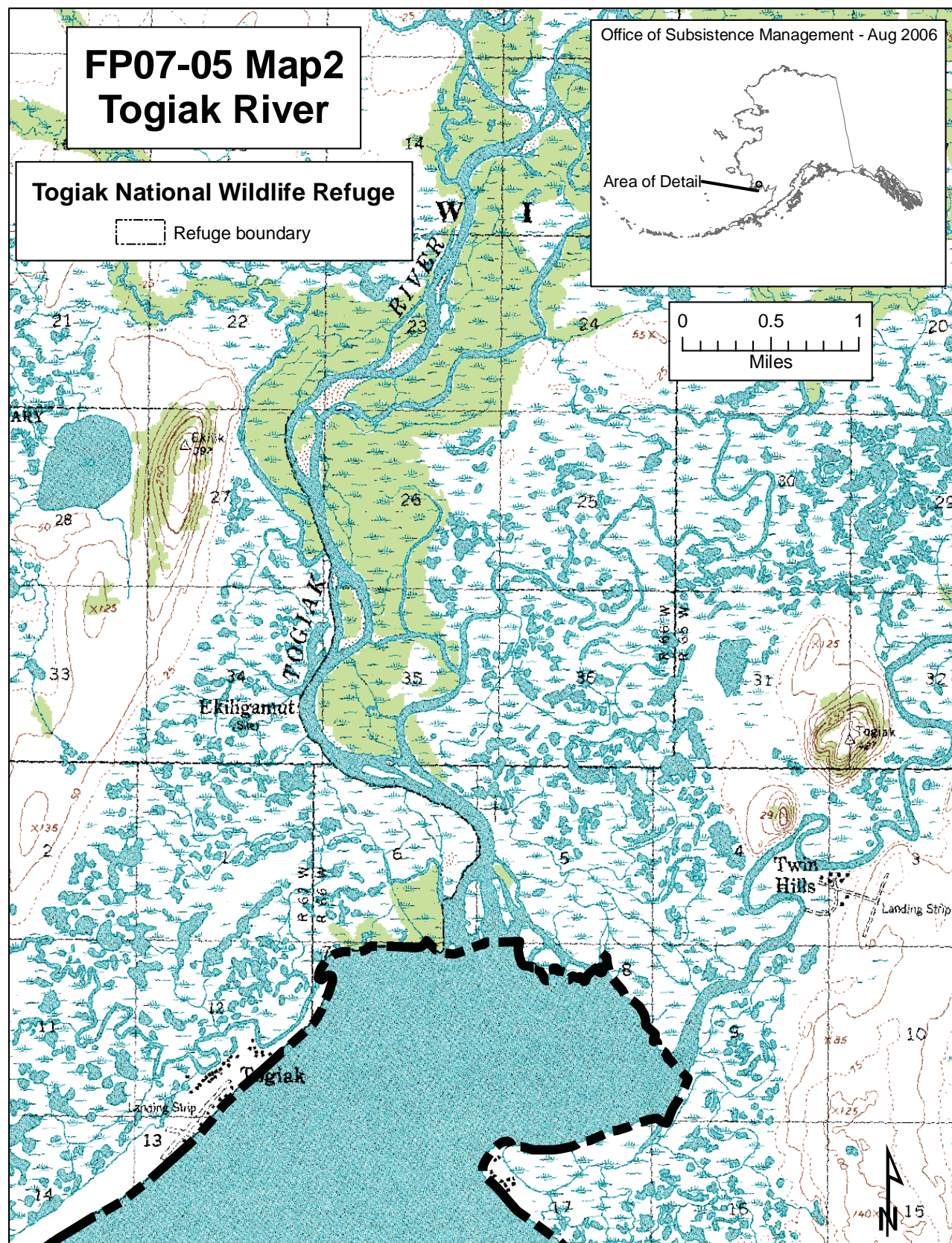
*(a) Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.*

*(b) Outside the boundaries of any district, salmon may only be taken by set gillnet, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

#### **Extent of Federal Public Waters**

Federal public waters within the Bristol Bay region include all waters on, flowing through, or adjacent to Federal public lands. This includes all waters within Federal conservation system units, regardless







of landownership within those boundaries (50 CFR 100.3 subpart a). This regulation, if adopted, would apply to the Togiak River, which is located within the boundaries of the Togiak National Wildlife Refuge (**Maps 1 and 2**).

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 50 CFR 100.3(b).

### **Customary and Traditional Use Determinations**

Under Federal subsistence management regulations, residents within the Togiak District (same as ADF&G commercial fishing district) and the community of Manokotak have a positive customary and traditional use determination for salmon in the Togiak River.

### **Regulatory History**

The current regulatory framework, including customary and traditional use determinations, for the Bristol Bay Management Area was adopted from existing State subsistence fishing regulations in 1999 by the Federal Subsistence Board. General provisions of Federal subsistence management regulations list drift gillnets as a legal gear type. However, specific Bristol Bay regulations only allow the use of set gillnets or spear as a harvest method in the Togiak River. Additionally, the Togiak District Federal subsistence management regulations require Federally qualified subsistence users to remove either the entire dorsal fin or both lobes of the caudal fin of subsistence caught coho salmon. This requirement is in place to reduce the chance of subsistence caught fish from entering the commercial harvest.

### **Biological Background**

The average annual salmon escapement for the Togiak River from 1994 to 2003 was 213,377 sockeye, 13,471 Chinook, 24,689 coho, and 136,189 chum salmon (Westing et al. 2005). Escapement data for Chinook and chum salmon are reported for the entire Togiak District, while sockeye and coho salmon data are reported for the Togiak River. Pink salmon escapement data are lacking for the Togiak River. All salmon stocks in the Togiak River appear to be healthy at this time. The majority of sockeye and Chinook salmon spawning in the Togiak River drainage occurs in Togiak Lake, the mainstem of the river from the mouth of the Gechiak River upstream, and in the five main tributaries to the Togiak River (USFWS 1990). Spawning ground surveys from 1982 to 2001 estimate that on average 16% (n=7,160) of the drainage-wide spawning chum salmon, and 14% (n=1,713) of drainage-wide spawning coho salmon, are located between the mouth of the Gechiak River and Togiak Bay (Sands et al. 2003). The coho salmon estimates were only generated in 12 of the last 20 years, and no surveys were conducted in 2000 and 2001. Additionally, the timing of the 2002 coho salmon aerial surveys was late August, thus fish observed in the lower river may have been staging prior to spawning in other locations.

### **Harvest History**

Subsistence is a way of life for residents of Togiak and Twin Hills. Pacific salmon are one of the primary subsistence resources for these residents (Coiley-Kenner et al. 2003). During the ADF&G 2000 household survey, 25% of the total subsistence harvest in Togiak and 34% of the harvest in Twin Hills were salmon. Most of this harvest occurs on the Togiak River. Wolfe et al. (1984) characterized the community as having a mixed subsistence-market economy, with subsistence resources playing a prominent role in both the economy and social welfare.

During the period 1994–2003, residents within the Togiak District harvested an annual average total of 2,509 sockeye, 915 Chinook, and 455 coho salmon (Westing et al. 2005). During this same time period, the number of subsistence permits issued has averaged 49 for the Togiak District. The 2004 subsistence harvest for the Togiak District was 1,795 sockeye, 1,094 Chinook, and 204 coho salmon.

Gross (1991) described subsistence salmon fishing on the Togiak River. He stated that harvest methods included set gillnets, seines, drifting with gillnet, spears, and rod and reel. Except for spawning sockeye and some fishing for silver salmon, most of the subsistence fishing effort occurred in the lower 12 miles of the Togiak River (**Map 1**). Most of the fish were harvested using set gillnets. He also described drift gillnetting in the lower Togiak River. Gross (1991) stated drifting a net is a method used by some people who want to catch most of their subsistence fish in one trip. Most drifting took place near the mouth of the river (**Map 2**). Usually a main channel is selected with a long straight run to a point of an island. During Gross's study, he only observed four cases where drifting was done, of which two cases involved the same people. Information from a local subsistence user indicates that drift gillnets are used by local residents in the lower Togiak River (Abraham, 2006, pers. comm.)

Coiley-Kenner et al. (2003) described current subsistence methods used to harvest salmon. In Togiak, 88.1% percent of harvested salmon (86.8% by weight) were caught using subsistence methods, usually a set gillnet. Removal from commercial catches contributed for 7.9% of the catch, and 4.1% of salmon were taken with rod and reel. In Twin Hills, 85.7% of the total number of salmon harvested were in subsistence nets. Only 10.0% were removed from commercial catches, and a small number of salmon (4.4%) were caught using rod and reel (Coiley-Kenner et al. 2003).

### **Effect of the Proposal**

Due to the smaller size of the upper reaches and tributaries of the Togiak River, salmon spawning in these locations are vulnerable to overexploitation with drift gillnets. Harvesting a large number of actively spawning salmon from a localized area can have a detrimental impact on the population. Restricting the use of drift gillnets to the lower section of the river will target mostly mixed stocks of migrating fish and protect most spawning aggregates from possible over exploitation, without placing an undue burden on subsistence users.

If permitted, the use of drift gillnets would allow subsistence users to harvest fish in a more efficient manner than set gillnets. The recognized practice of subsistence harvesting is to take only what is needed. Therefore, drift gillnet use should not lead to an increase in the amount of fish harvested. Drift gillnets may reduce the harvest, as subsistence users have more flexibility in the amount of harvest with a drift gillnet compared to a set gillnet.

Set gillnets are usually left unattended and are fished for a variable amount of time, which depends on the prevailing salmon run strength. In some cases, weather and/or tide cycles prevent subsistence users from tending/returning to their set gillnets, and they may actually catch more fish than desired. When set gillnets are stored on the river banks, they risk being washed into the river during periods of high water and catching fish unintentionally. Fish caught unintentionally in nets generally spoil and are wasted.

The potential impacts for the use of drift gillnets are primarily social. There is an ongoing undercurrent of conflict between subsistence and sport anglers (Gross 1991). This proposed regulatory change may cause additional conflict between subsistence and sport user groups. Current regulations do not restrict either group in the presence of the other. Currently the set gillnet and sport fisheries compete for fishing locations on a first come, first served basis. If a fishing spot is occupied, the fisher will find another spot to hook and line fish or set their gillnet. The drift gillnet fishery is more active and requires much more

area to operate. The proposed drift gillnet subsistence fishery will probably target the same prime fishing areas sport anglers use. Gross (1991) concluded that sport fishing and gillnet fishing are incompatible.

This proposal could increase interest/participation in customary trade of subsistence caught salmon for cash. The majority of subsistence harvested salmon in Bristol Bay is not eligible for customary trade for cash. However, residents within the Togiak District are qualified under Federal subsistence management regulations to engage in cash sale of subsistence caught salmon. Since 2004, a recording form has been required of Federally qualified subsistence users in Bristol Bay who sell subsistence caught salmon to non-rural individuals. Since the inception of the form, there have been seven forms issued. In all but one case, Federally qualified subsistence users requesting the form did not sell fish to any non-rural individual.

Hopefully, if this proposal is adopted, ADF&G will allow drift gillnet harvest data to be collected in accordance with the current permitting system in place in the Bristol Bay region (i.e., use of ADF&G permit which requires harvest reporting). Allowing drift gillnet harvest data to be reported on the current permit would be similar to the situation that currently exists in the Alaska Peninsula and Chignik Fishery Management Areas. In these areas, rod and reel is an approved harvest method under Federal subsistence management regulations. The harvest information is reported on the ADF&G subsistence permit (Federal Register 2006, Bouwens and Poetter 2006). If ADF&G is unwilling to allow drift gillnet harvest data to be reported on their permit, the only remaining option is the creation of a Federal permit from which this harvest data would be collected. This option would create more confusion in the already challenging dual management system. Currently, the harvest reporting for the Bristol Bay region is outstanding, averaging 85–90% return on permits (ADF&G 2002). This high return rate is a result of ADF&G Subsistence Division's expending considerable effort, time, and resources implementing the permitting program. Allowing Federally qualified subsistence users to report all harvest on the current State permit is the best approach to ensure that the harvest data is collected. Collection of the harvest data is ultimately more important for management than how the harvest occurred.

## PRELIMINARY CONCLUSION

**Support with modification** to include that the use of drift gillnets are restricted to inland waters of the Togiak River, one river mile upstream from the mouth of the river (**Map 2**). Inland waters are defined as waters located landward of the mean high tide or upstream of a line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea (Federal Register 2006).

The modified proposed regulation should read:

### **Bristol Bay Area – Salmon**

§ \_\_.27(i)(5)(vii) *Outside the boundaries of any district, **unless otherwise specified**, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

*(A) You may also use drift gillnets not greater than 10 fathoms in length and 2.5 fathoms deep to take salmon in the Togiak River in the first river mile upstream from the mouth of the river.*

## Justification

This proposed change with modification would provide Federally qualified subsistence users an additional gear type to improve efficiency and should not result in an increased harvest. Both the proponent of the new regulation and a local Regional Advisory Council member concur with the modification to restrict the use of drift gillnets to the first river mile upstream from the bay. Restricting the use of drift gillnets to the first river mile should provide protections for salmon stocks, without placing an undue burden on Federally qualified subsistence users. Gross (1991) reported the majority of subsistence fishing occurs in the lower 12 miles of the river. Additionally, restricting this activity to the first river mile instead of the entire river as originally proposed, should aid in reducing potential conflict between sport anglers and subsistence users.

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## ADF&G PRELIMINARY COMMENTS PROPOSAL FP07-05: TOGIAC RIVER DRIFT GILLNETS

**Introduction:** This proposal would allow for the use of drift gillnet gear by federally qualified subsistence users to harvest salmon in the Togiak River. The preliminary federal staff recommendation is to support the proposal with the modification to limit use of drift gillnets to the Togiak River downstream of its confluence with the Gechiak River.

ADF&G has not taken a position on this proposal at this time, but offers these preliminary comments to help point out potential issues surrounding the proposal that will need further discussion and resolution. Based on the information we receive during the Regional Advisory Council meeting and from other sources, we will revise our comments accordingly and develop a position prior to the Federal Subsistence Board meeting.

**Opportunity Provided by State:** Current state regulations provide for subsistence fishing with set gillnets and spears (except in tributaries) in the Togiak River. Fishing in the river is allowed at any time and additional opportunity, including use of drift gillnets, is allowed in the waters of the commercial fishing district during commercial openings. There is no limit on the number of fish harvested for subsistence in the Togiak River drainage. There appears to be sufficient opportunity for harvest of salmon for subsistence purposes in this area. Therefore, adoption of this proposal does not appear necessary to provide for continued subsistence uses or to provide a meaningful preference for subsistence. However, ADF&G would like to hear discussion of the other benefits use of drift gillnets would provide to subsistence users and if current participation and harvest is actually limited by allowing only set gillnets and spears (except in the tributaries) in the Togiak River, rather than drift gillnets.

**Conservation Issues:** No salmon stocks in this area have been determined by the Alaska Board of Fisheries to be a stock of conservation or management concern, so adoption of this proposal is not necessary to address a conservation or management concern. Adoption of this proposal, if successful in substantially improving efficiency of this fishery and if not adequately monitored, has the potential to create management or conservation issues. For example, in 1998, the commercial fishery was shut down because of conservation issues created when subsistence fish were being sold commercially. As noted in the analysis, adoption of this proposal could increase interest and participation in activities involving sale of subsistence-caught salmon. Residents of Togiak are qualified under federal subsistence regulations to engage in limited cash sale of subsistence-caught salmon under a customary trade provision. While the analysis indicates that there appears to be little usage of this provision, there needs to be adequate monitoring and enforcement of this provision if this proposal is adopted.

**Jurisdiction Issues:** ADF&G does not accept the claims of federal jurisdiction as contained in the section entitled "Extent of Federal Public Waters." We have requested detailed maps of the area showing exactly what lands and waters are subject to the federal claim of jurisdiction and providing the basis for each claim, but have not received it yet. ADF&G may have additional comments after reviewing this material.

**Other Comments:** ADF&G suggests that federal and state staff assist the proposal proponent in pursuing full consideration by the Alaska Board of Fisheries. Doing so will provide opportunity for broader public input, including local Fish and Game Advisory Committees and other knowledgeable people. Information gained from these additional discussions and deliberations will contribute greatly to equitable resolution of any issues that may arise in considering a new gear type in this area.

The federal staff analysis references previous use of drift gillnets in the Togiak River, but omits information on whether this is a customary and traditional method for subsistence. The Federal Subsistence Board should not authorize a practice until it has discussed and demonstrated that the proposed method meets the customary and traditional use standard.

ADF&G would like to hear discussion from the public, Regional Advisory Council, and Fish and Game Advisory Committee about the history and extent of use of this method.

ADF&G is concerned about how harvest information will be obtained if this proposal is adopted, because harvest data would not be captured under the current state permit system. ADF&G will not issue a permit for a gear type that is illegal under state regulations or one that would require the state to screen individuals for federal eligibility. Therefore, the harvest information will not be captured on state permits, as it normally would be. If the Federal Subsistence Board adopts this proposal it will have to provide for permitting, reporting, and monitoring of the fishery. Issuing multiple permits and requiring separate reporting will be confusing and cumbersome for users.

ADF&G is also concerned that use of drift gillnets would be extremely effective if allowed to occur in the upper portion of the river, which is clear water. Therefore, if the proposal is adopted, the federal staff recommendation to limit use of drift gillnets to below the confluence with the Gechiak River may have merit. ADF&G would like to hear discussion at the Regional Advisory Council meeting about where the most appropriate limits would be located.

**Conclusion:** ADF&G has several concerns about this proposal in its current form. If adopted by the Federal Subsistence Board, it would apply only to federally qualified subsistence users fishing on federal public lands. There is disagreement over exactly where those areas are and effective enforcement would require the ability to positively identify people according to federal eligibility rules. Consideration of the proposal by the Alaska Board of Fisheries would ensure broad public input and input by the Fish and Game Advisory Committees, which may help develop the proposal and resolve associated issues. If the Board of Fisheries adopted the proposal, issues associated with jurisdiction, permitting, and reporting would be solved. This process might also bring out information that would bolster the federal staff analysis with regard to whether this is a customary and traditional method and whether an additional gear type is necessary to provide for continued subsistence uses or to provide a meaningful preference for subsistence.

Since it appears there is already substantial opportunity provided for subsistence, ADF&G would also like to hear discussion on whether or not subsistence uses are currently being provided for, or if the current participation and harvest is actually limited by allowing only set gillnets and spears (except in the tributaries) in the Togiak River, rather than drift gillnets. Unilateral adoption of this proposal by the Federal Subsistence Board would conflict with current state regulations, would be difficult to administer, and would impose additional permitting, reporting, and monitoring requirements on users and federal staff. Because of these problems, ADF&G would like to see information that supports the contention that current subsistence fishing opportunities are inadequate.

To help alleviate these problems, ADF&G suggests that the federal staff assist the proposal proponent in pursuing full consideration by the Alaska Board of Fisheries. We request that the Federal Subsistence Board not take action on this proposal until the Alaska Board of Fisheries has had an opportunity to address this issue.

<b>FP07-06 Executive Summary</b>	
<b>General Description</b>	Requests that snagging (with rod and reel), spear or arrow, and hand capture be permitted as legal methods and gear type for use in Lake Clark by Federally qualified subsistence users. <i>[Submitted by: Lake Clark Subsistence Resource Commission]</i>
<b>Proposed Regulation</b>	<b>Bristol Bay Area – Salmon</b>  ____.27(i)(5)(vii) <i>Outside the boundaries of any district, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.</i>
<b>Bristol Bay Regional Council Recommendation</b>	
<b>Staff Recommendation</b>	<b>Support with modification</b> to include that the use of spear or bow and arrow be permitted as a legal gear type to harvest salmon in Lake Clark and its tributaries.  The modified proposed regulation should read:  <b>Bristol Bay Area – Salmon</b>  §____.27(i)(5)(vii) Outside the boundaries of any district, <b><i>unless otherwise specified</i></b> , you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries. <b><i>Salmon may also be taken in Lake Clark and its tributaries by spear or bow and arrow.</i></b>
<b>ADF&amp;G Comments</b>	<b>ADF&amp;G has not taken a position on this proposal at this time</b> , but offers preliminary comments ( <i>see comments following analysis</i> ).
<b>Written Public Comments</b>	<b>None.</b>

## DRAFT STAFF ANALYSIS FP07-06

### ISSUES

FP07-06 submitted by the Lake Clark Subsistence Resource Commission, requests that snagging (with rod and reel), spear or arrow, and hand capture be permitted as legal methods and gear type for use in Lake Clark by Federally qualified subsistence users.

### DISCUSSION

The proposed regulation would allow snagging, spear or arrow, or hand capture by Federally qualified subsistence users in Lake Clark and its tributaries. The proponent is seeking this regulatory change to provide subsistence users less expensive methods to harvest fish.

#### Existing Federal Regulation

##### Bristol Bay Area—Salmon

\_\_\_\_.27(i)(5)(vii) *Outside the boundaries of any district, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

#### Proposed regulation

##### Bristol Bay Area—Salmon

§ \_\_\_\_\_.27(i)(5)(vii) *Outside the boundaries of any district, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries. **Salmon may also be taken in Lake Clark and its tributaries by snagging, using a spear or arrow and capturing by bare hand.***

#### Existing State Regulation:

5 AAC 01.320. *Lawful Gear and Gear Specifications*

(a) *Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.*

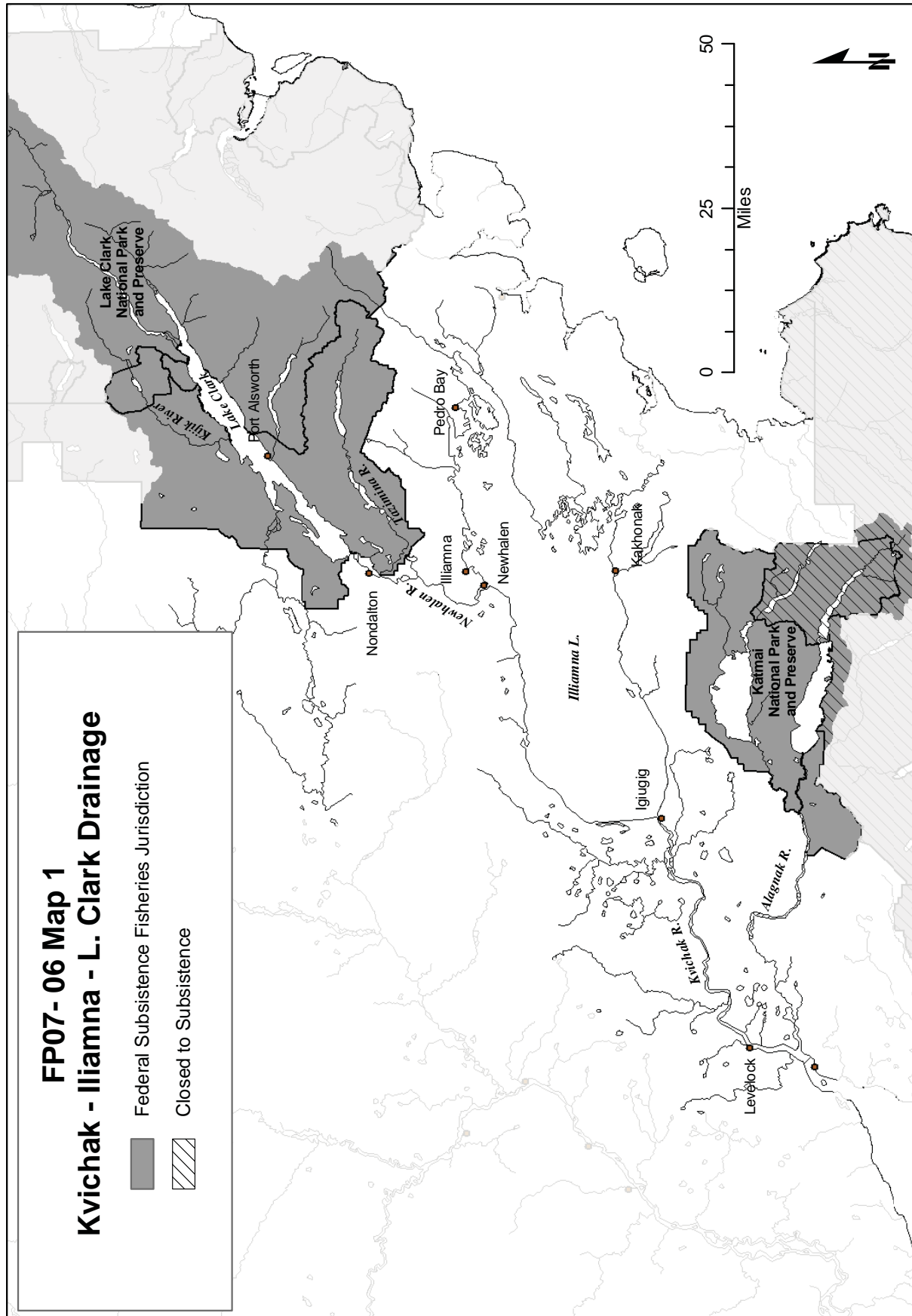
(b) *Outside the boundaries of any district, salmon may only be taken by set gillnet, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

#### Extent of Federal Public Waters

Federal public waters within the Bristol Bay region includes all waters within or adjacent to the Lake Clark National Park and Preserve (Map 1). This regulation, if adopted, would apply to Lake Clark and its tributaries located within the boundaries of Lake Clark National Park and Preserve.

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 50 CFR 100.3(b).





## **Customary and Traditional Use Determinations**

All residents of the Kvichak/Iliamna-Lake Clark drainage have a positive customary and traditional use determination for salmon. Communities within this drainage include Iliamna, Lime Village, Newhalen, Nondalton, Pedro Bay, and Port Alsworth.

## **Regulatory History**

The current regulatory framework for the Bristol Bay Fishery Management Area was adopted from existing State subsistence regulations in 1999 by the Federal Subsistence Board. General provisions of Federal subsistence management regulations list spear as legal gear types. However, specific Bristol Bay regulations prohibit these methods within Lake Clark.

National Park Service regulations identify qualified local rural subsistence users within Alaska National Parks by: 1) identifying communities or areas—commonly referred to as resident zone communities—which include a significant concentration of rural residents who have customarily and traditionally engaged in subsistence uses within a park, preserve or monument; and 2) identifying and issuing subsistence eligibility permits (36 CFR 13.44 permits) to individuals who reside in rural areas outside of a resident zone, but who have a personal or family history of use of the park or monument. Resident zone communities for Lake Clark National Park are Iliamna, Lime Village, Newhalen, Nondalton, Pedro Bay, and Port Alsworth.

## **Biological Background**

In 2003, the Alaska Board of Fisheries elevated the Kvichak River sockeye salmon stock to a stock of management concern due to its chronic inability to meet management objectives (Westing et al. 2005). The average sockeye salmon escapement for the Kvichak River from 2000 to 2005 was approximately 2.1 million sockeye salmon, while the average escapement for the Newhalen River (Lake Clark) was 310,616 sockeye salmon during the same time period (Young and Woody in press).

## **Harvest History**

Historical data (Osgood 1937) reports the use of fish traps, drag nets and spear by subsistence users in this region. More recent studies by Behnke (1981) and Stickman et al (2003) discuss salmon harvest methods for the communities of Nondalton, Iliamna, and Newhalen. Neither the historical work of Osgood (1937) nor the recent work of Behnke (1981) and Stickman et al. (2003) mention snagging, use of arrow, or hand capture as a method used by subsistence fishers of this region.

Subsistence is a way of life for residents of Iliamna, Lime Village, Newhalen, Nondalton, Pedro Bay, and Port Alsworth. Pacific salmon, predominantly sockeye salmon, are one of the primary subsistence resources for residents (ADF&G 2003). Fall et al. (2001) reports a decrease in subsistence harvest for Kvichak River drainage residents, and that more effort is being expended by Federally qualified subsistence users to harvest fish. During the period 1994–2003, the average subsistence harvest for residents of these communities was 31,923 sockeye salmon; while the 2004 average harvest was 37,699 sockeye salmon (Westing et al. 2005).

## **Effect of the Proposal**

If adopted, this proposal would provide Federally qualified subsistence users with methods and gear types that are less expensive to purchase than set gillnets. The recognized practice of subsistence harvesting is

to take only what is needed. Therefore, use of these proposed methods should not lead to an increase in the amount of fish harvested. The use of the proposed gear types could reduce harvest as individual fish are targeted and subsistence users have more control over the amount of harvest than with a set gillnet. In addition, these gear types would allow subsistence users to harvest only the target species, thereby reducing the harvest of non-targeted species.

The proposed use of snagging (with rod and reel) as a means of harvest is cause for concern. Given the likelihood that not all fished hooked by snagging will be landed, this method will potentially result in a number of fish being injured, and depending on the severity of the injury not successfully spawn. Additionally, the injury rate could be very high as there is the potential of the fisher to continue snagging until successful. Therefore, snagging with rod and reel in Lake Clark or its tributaries should not be considered a biologically sound method of harvest. The same biological concerns do not exist for the use of spear or bow and arrow as a harvest method.

The proposed use of hand capture generated a good deal of discussion among staff, and no clear consensus was reached on its use. One argument is that when hand capture is a directed use, the potential impacts (e.g. harassing spawning fish, disturbance of redds) warrant not approving its use. The counter to this argument is that currently sport anglers are permitted to wade in and around spawning salmon thus disrupting spawning fish as well. When used opportunistically, the impacts of hand capture should be acceptable. However, implementation of regulation in which a gear type may only be used opportunistically would be impractical. Given the differing staff opinions, the use of hand capture is deferred until the Bristol Bay Subsistence Regional Advisory Council has had the opportunity to comment on this aspect of the proposal.

An additional potential impact is the social conflict between user groups. Sport anglers and subsistence users are likely to target the same areas. Young (2005) reports overlap in area use by both groups, mainly at the outlet of Lake Clark and in the Kijik River drainage. However, within the Kijik River drainage the majority of subsistence fishing is harvest of redfish (post-spawn sockeye salmon) which provides a temporal separation of the users (Young 2005).

Hopefully, if this proposal is adopted, ADF&G will collect permit harvest data from these gear types in accordance with the current permitting system in place in the Bristol Bay region (i.e., use of ADF&G permit, which requires harvest reporting). Allowing this harvest data to be reported on the current permit would be similar to the situation that currently exists in the Alaska Peninsula and Chignik Management Areas. In these areas, rod and reel is an approved harvest method under Federal regulations and not under ADF&G regulations. However, the harvest information is reported on the ADF&G subsistence permit (Federal Register 2006, Bouwens and Poetter 2006). If ADF&G is unwilling to allow this harvest data to be reported on their permit the only option that remains is the creation of a Federal permit from which this harvest data would be collected. This option would create more confusion in the already challenging dual management system. Currently, the harvest reporting for the Bristol Bay region is outstanding, averaging 85–90% return on permits (ADF&G 2002). This high return rate is a result of ADF&G's Subsistence Division expending considerable effort, time, and resources implementing the permitting program. Allowing subsistence users to report all harvest on the current permit is the best approach to ensure that the data is collected. Collection of the harvest data is ultimately more important for management than how the harvest occurred.

## PRELIMINARY CONCLUSION

**Support with modification** to include that the use of spear or bow and arrow be permitted as a legal gear type to harvest salmon in Lake Clark and its tributaries.

The modified proposed regulation should read:

### **Bristol Bay Area – Salmon**

*§\_\_\_\_.27(i)(5)(vii) Outside the boundaries of any district, **unless otherwise specified**, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries. **Salmon may also be taken in Lake Clark and its tributaries by spear or bow and arrow.***

### **Justification**

A thorough investigation of traditional salmon harvest methods is lacking for communities in this region. Historical data (Osgood 1937) reports the use of fish traps, drag nets and spear by subsistence users in this region. More recent studies by Behnke (1981) and Stickman et al (2003) discuss salmon harvest methods for the communities of Nondalton, Iliamna, and Newhalen. Neither the historical work of Osgood (1937) or the recent work of Behnke (1981) and Stickman et al. (2003) mention snagging, use of arrow, or hand capture as a method used by subsistence fishers of this region. This proposed change with modification would allow the use of a traditional harvest method (Osgood 1937, Stickman et al. 2003) and should not result in an increased harvest. Spear and bow and arrow fishing for salmon targets one fish at a time so the potential to impact a spawning aggregate is not great. The biological concerns of injury to fish from snagging are sufficient enough that we do not recommend approval of snagging as a legal method.

Given the differing staff opinions on the use of hand capture we defer any recommendation on this aspect of the proposed regulation until hearing from the Bristol Bay Regional Advisory Council.

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**ADF&G PRELIMINARY COMMENTS  
PROPOSAL FP 07-06: SNAGGING, SPEARS, BOW AND ARROW,  
AND HAND CAPTURE IN LAKE CLARK**

**Introduction:** If adopted, this proposal would allow the use of snagging, spear, arrow, or capturing salmon by bare hand by federally qualified subsistence users in Lake Clark and its tributaries. The preliminary federal staff recommendation is to support the proposal with the modification to allow only use of spear. Federal staff have not made a recommendation regarding the use of hand capture.

ADF&G has not taken a position on this proposal at this time, but offers these preliminary comments to help point out potential issues surrounding the proposal that will need further discussion and resolution. Based on the information we receive during the Regional Advisory Council meeting and from other sources, we will revise our comments accordingly and develop a position prior to the Federal Subsistence Board meeting.

**Opportunity Provided by State:** Salmon may be harvested under state regulations using set gillnets with no limit on the amount harvested. Federal regulations are more restrictive and allow only residents of “resident zone” communities or of the park itself to harvest salmon with a net for subsistence. Salmon escapements in this area have been very low in some recent years, especially 2000 through 2003 when Kvichak River drainage escapement goals were not met. Amounts reasonably necessary for subsistence, as determined by the Alaska Board of Fisheries, were not met in the drainage in those years. In these poor return years, people do need to fish harder in the Lake Clark area and may also obtain fish from other areas. It appears that the ability to achieve amounts reasonably necessary for subsistence is precluded by poor runs in some years. It is not clear what part, if any, the use of only set gillnets plays and whether additional gear types are necessary to provide for continued subsistence uses or to provide a meaningful preference for subsistence uses.

**Conservation Issues:** Kvichak River sockeye have been determined by the Alaska Board of Fisheries to be a stock of management concern and was previously a stock of yield concern. This proposal does not address this management concern. Use of these methods may increase harvest in small tributaries late in the year. It is not known whether such harvest would be large enough to raise any conservation issues. ADF&G agrees with the federal analysis that the proposed usage of snagging creates social and enforcement problems. However, allowing hand capture also presents significant social and conservation issues. Hand capturing salmon would require people to walk or run across spawning grounds to come within arms reach of the fish. This would violate state law against molesting salmon, may result in decreased spawning success depending on the frequency of occurrence, and possibly damage redds. This is not consistent with principles of sound management and conservation of fish and wildlife resources. Participating in hand capture practices will also open users to state legal action. If there is some method of hand capture that does not involve disturbing spawning salmon and walking or running on redds, ADF&G would be interested in hearing about it at the Regional Advisory Council meeting.

**Jurisdiction Issues:** ADF&G does not accept the claims of federal jurisdiction as contained in the section entitled “Extent of Federal Public Waters”. We have requested detailed maps of the area showing exactly what lands and waters are subject to the federal claim of jurisdiction and providing the basis for each claim, but have not received it yet. ADF&G may have additional comments after reviewing this material.

**Other Comments:** ADF&G suggests that federal and state staff assist the proposal proponent in pursuing full consideration by the Alaska Board of Fisheries. Doing so will provide opportunity for broader public input, including local Fish and Game Advisory Committees and other knowledgeable people. Information

gained from these additional discussions and deliberations will contribute greatly to equitable resolution of any issues that may arise in considering a new gear type in this area.

ADF&G questions whether snagging, use of bow and arrow, or hand capture are customary and traditional gear types for salmon in the Lake Clark area and would like to hear the discussion of this at the Regional Advisory Council meeting. Use of spears does seem to be well documented in the literature, but some of that documentation was omitted from the draft federal staff analysis and ADF&G would like to see it included.

Use of spears is allowed under state regulations in other parts of Bristol Bay such as the Togiak River (although not in its tributaries) and along a portion of the west shore of Naknek Lake in September.

ADF&G is concerned about how harvest information will be obtained if this proposal is adopted, because harvest data would not be captured under the current state permit system. ADF&G will not issue a permit for a gear type that is illegal under state regulations or one that would require the state to screen individuals for federal eligibility. Therefore, the harvest information will not be captured on state permits, as it normally would be. If the Federal Subsistence Board adopts this proposal it will have to provide for permitting, reporting, and monitoring of the fishery. Issuing multiple permits and requiring separate reporting will be confusing and cumbersome for users.

**Conclusion:** The draft federal analysis did not provide substantial evidence to show that allowing this gear type is necessary to provide for continued subsistence uses or to provide a meaningful preference for subsistence uses. The staff recommendation is to allow only the use of spears (allowing hand capture is still under consideration) and not allow snagging or use of bows and arrows. ADF&G concurs with the analysis that use of snagging and bows and arrows creates social and enforcement problems. Spears appear to be a traditional gear and are allowed in some parts of Bristol Bay under state regulations. Allowing hand capture of salmon on the spawning grounds, however, violates recognized principles of sound management and the conservation of fish and wildlife.

ADF&G would also like to hear the Regional Advisory Council discussion on whether run size is the primary limiting factor on subsistence uses, or if current participation is actually limited by the cost of using set gillnets. It is difficult to estimate how the use of additional gear types will affect harvest. However, adoption of this proposal would conflict with current state regulations, would be difficult to administer, and would impose additional permitting and reporting requirements on users. Because of these problems, ADF&G would like to see information that supports the contention that current subsistence fishing opportunities are inadequate.

To help alleviate these problems, ADF&G recommends that the federal staff assist the proposal proponent in pursuing full consideration by the Alaska Board of Fisheries. ADF&G also requests that the Federal Subsistence Board not take action on this proposal until the Alaska Board of Fisheries has had an opportunity to address this issue.

<b>FP07-07 Executive Summary</b>	
<b>General Description</b>	Requests that beach seine is permitted as a legal gear type for use in Lake Clark by Federally qualified subsistence users. <i>[Submitted by: Lake Clark Subsistence Resource Commission]</i>
<b>Proposed Regulation</b>	<p><b>Bristol Bay Area – Salmon</b></p> <p>§ __.27(i)(5)(vii) <i>Outside the boundaries of any district, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries. <b>You may also take salmon by beach seine in Lake Clark and its tributaries.</b></i></p>
<b>Bristol Bay Regional Council Recommendation</b>	
<b>Staff Recommendation</b>	<p><b>Support with modification</b> to limit the use of beach seines to Lake Clark (not permitted in any tributary to Lake Clark).</p> <p>The modified proposed regulation should read:</p> <p>§ __.27(i)(5)(vii) <i>Outside the boundaries of any district, <b>unless otherwise specified</b>, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.</i></p> <p><i>(A) You may use beach seines in Lake Clark, excluding its tributaries.</i></p>
<b>ADF&amp;G Comments</b>	<b>ADF&amp;G has not taken a position on this proposal at this time</b> , but offers preliminary comments ( <i>see comments following analysis</i> ).
<b>Written Public Comments</b>	<b>None.</b>



## **DRAFT STAFF ANALYSIS FP07-07**

### **ISSUES**

FP07-07 submitted by the Lake Clark Subsistence Resource Commission, requests that beach seine is permitted as a legal gear type for use in Lake Clark by Federally qualified subsistence users.

### **DISCUSSION**

The proposed regulation would allow the use of beach seines by Federally qualified subsistence users in Lake Clark and its tributaries. The proponent is seeking this regulatory change to allow subsistence users to harvest fish in a more selective manner.

#### **Existing Federal Regulation**

##### **Bristol Bay Area – Salmon**

§ \_\_\_.27(i)(5)(iv) *You may not take fish from waters within 300 feet of a stream mouth used by salmon.*

\_\_\_\_.27(i)(5)(vii) *Outside the boundaries of any district, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

#### **Proposed regulation**

##### **Bristol Bay Area – Salmon**

§ \_\_\_.27(i)(5)(vii) *Outside the boundaries of any district, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries. **You may also take salmon by beach seine in Lake Clark and its tributaries.***

#### **Existing State Regulation:**

*5 AAC 01.320. Lawful Gear and Gear Specifications*

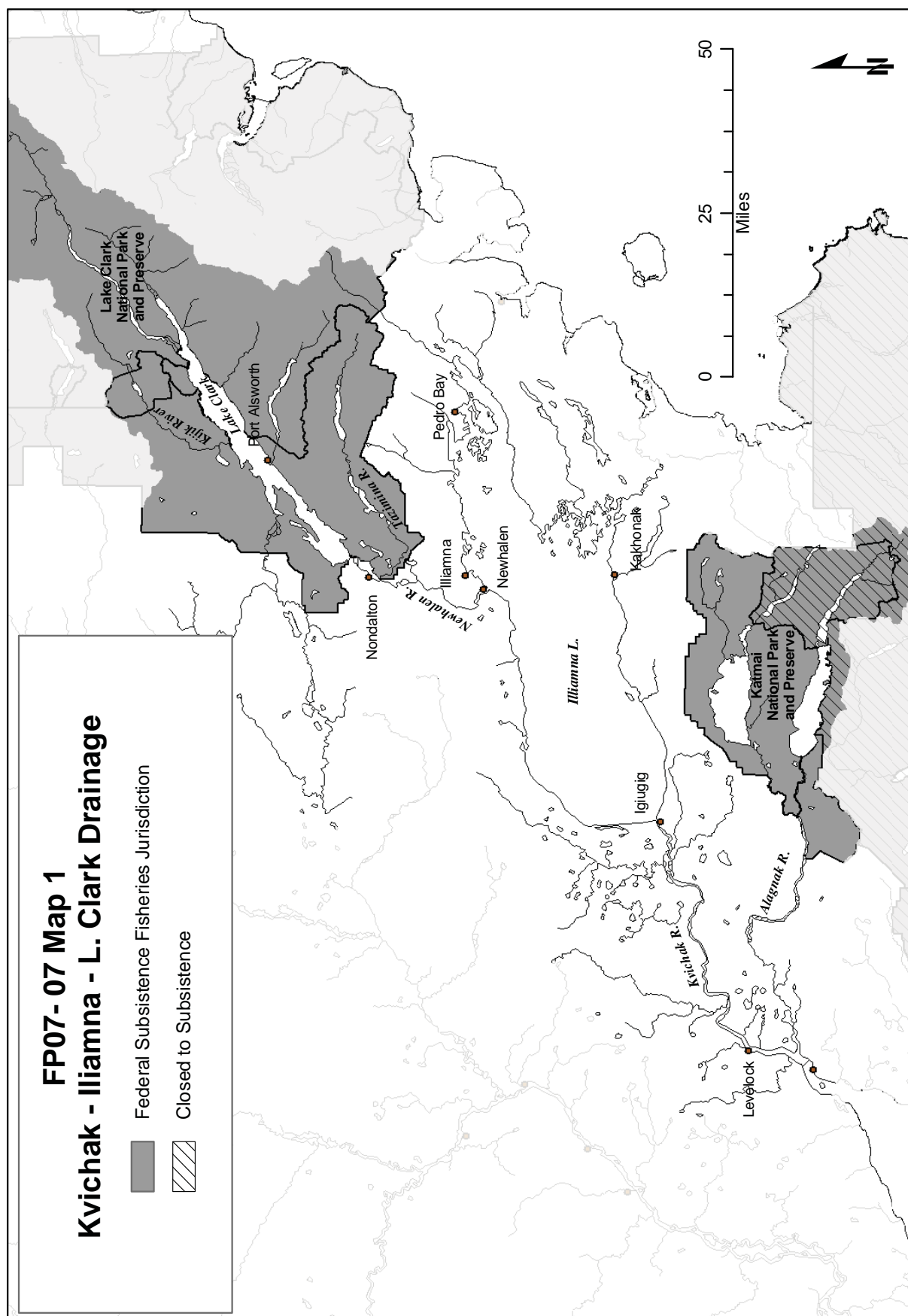
*(a) Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.*

*(b) Outside the boundaries of any district, salmon may only be taken by set gillnet, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*

#### **Extent of Federal Public Waters**

Federal public waters within the Bristol Bay region includes all waters within or adjacent to the Lake Clark National Park and Preserve (**Map 1**). This regulation, if adopted, would apply to Lake Clark and its tributaries located within the boundaries of Lake Clark National Park and Preserve.

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 50 CFR 100.3(b).



## **Customary and Traditional Use Determinations**

All residents of the Kvichak/Iliamna-Lake Clark drainage have a positive customary and traditional use determination for salmon. Communities within this drainage include Iliamna, Lime Village, Newhalen, Nondalton, Pedro Bay, and Port Alsworth.

## **Regulatory History**

The current regulatory framework for the Bristol Bay Management Area was adopted from existing State subsistence regulations in 1999 by the Federal Subsistence Board. General provisions of Federal subsistence regulations list spear as legal gear types. However, specific Bristol Bay regulations prohibit these methods within Lake Clark.

National Park Service regulations identify qualified local rural subsistence users within Alaska National Parks by: 1) identifying communities or areas—commonly referred to as resident zone communities—which include a significant concentration of rural residents who have customarily and traditionally engaged in subsistence uses within a park, preserve or monument, and 2) identifying and issuing subsistence eligibility permits (36 CFR 13.44 permits) to individuals who reside in rural areas outside of a resident zone but who have a personal or family history of use of the park or monument. Resident zone communities for Lake Clark National Park are Iliamna, Lime Village, Newhalen, Nondalton, Pedro Bay, and Port Alsworth.

## **Biological Background**

In 2003 the Alaska Board of Fisheries elevated the Kvichak River sockeye salmon stock to a stock of management concern due to its chronic inability to meet management objectives (Westing et al. 2005). The average sockeye salmon escapement for the Kvichak River from 2000 to 2005 was approximately 2.1 million sockeye salmon while the average escapement for the Newhalen River (Lake Clark) was 310,616 sockeye salmon during the same time period (Young and Woody in press).

## **Harvest History**

Subsistence is a way of life for residents of Iliamna, Lime Village, Newhalen, Nondalton, Pedro Bay, and Port Alsworth. Pacific salmon, predominantly sockeye salmon, are one of the primary subsistence resources for residents (ADF&G 2003). Fall et al. (2001) reports a decrease in subsistence harvest for Kvichak River drainage residents and that more effort is being expended by subsistence users to harvest fish. During the period 1994-2003 the average subsistence harvest for residents of these communities was 31,923 sockeye salmon while the 2004 average harvest was 37,699 sockeye salmon (Westing et al. 2005).

## **Effect of the Proposal**

If permitted, the use of beach seines would allow Federally qualified subsistence users to harvest fish in a more selective manner than set gillnets. The recognized practice of subsistence harvesting is to take only what is needed. Therefore, a change of gear type may affect the efficiency of harvest, but not necessarily increase the total subsistence harvest. Beach seine use may reduce harvest as subsistence users would have more control of harvest than with a set gillnet. In addition, the use of beach seines would allow subsistence users to harvest only salmon (i.e., reducing bycatch) and could provide a higher quality catch than that obtained from a set gillnet.

Set gillnets are typically used to target fish that are highly mobile during their daily activities (e.g., migrating salmon) (Hubert 1996). Aside from natal stream migration Pacific salmon movement is greatly reduced once near their natal stream (i.e. staging at stream mouths) or on the spawning grounds. The reduction in daily movement makes them susceptible to encircling with active gear (e.g., beach seine), a technique not practiced with a set gillnet. Therefore, if adopted as proposed, this proposal could place spawning aggregates and groups of staging salmon at risk to over exploitation. Harvesting a large number of salmon from a localized area (e.g., spawning areas, lake tributaries, or stream mouths) can have a detrimental impact on specific populations. Young (2005) documented that Lake Clark does support beach spawning populations of sockeye salmon. Due to their spawning locations these populations could be at risk to over exploitation by beach seine use. However, Woody et al. (2003) reports that there is considerable genetic mixing between these beach spawning populations. Therefore, the beach spawning populations do not appear to be as much at risk to the impacts of over exploration as tributary spawning populations.

Another potential impact is the social impact between user groups. Sport anglers and subsistence users are likely to target the same areas. Young (2005) reports overlap in area use by both groups, mainly at the outlet of Lake Clark and in the Kijik River drainage. However, within the Kijik River drainage the majority of subsistence fishing is harvest of redfish (post-spawn sockeye salmon) which provides a temporal separation of the users (Young 2005).

Hopefully, if this proposal is adopted, ADF&G will collect permit harvest data from this gear type in accordance with the current permitting system in place in the Bristol Bay region (i.e., use of ADF&G permit which requires harvest reporting). Allowing this harvest data to be reported on the current permit would be similar to the situation that currently exists in the Alaska Peninsula and Chignik Management Areas. In these areas rod and reel is an approved harvest method under Federal regulations and not under ADF&G regulations. However, the harvest information is reported on the ADF&G subsistence permit (OSM 2006, Bouwens and Poetter 2006). If ADF&G is unwilling to allow this harvest data to be reported on their permit the only option that remains is the creation of a separate Federal permit from which this harvest data would be collected. This option would create more confusion in the already challenging dual management system. Currently the harvest reporting for the Bristol Bay region is outstanding, averaging 85–90% return on permits (ADF&G 2002). This high return rate is a result of ADF&G's Subsistence Division expending considerable effort, time, and resources implementing the permitting program. Allowing subsistence users to report all harvest on the current permit is the best approach to ensure that the data is collected. Collection of the harvest data is ultimately more important for management than how the harvest occurred.

## PRELIMINARY CONCLUSION

**Support with modification** to limit the use of beach seines to Lake Clark (not permitted in any tributary to Lake Clark).

The modified proposed regulation should read:

### **Bristol Bay Area – Salmon**

§\_\_\_\_.27(i)(5)(vii) *Outside the boundaries of any district, **unless otherwise specified**, you may take salmon by set gillnet only, except that you may also take salmon by spear in the Togiak River, excluding its tributaries.*



(A) *You may use beach seines in Lake Clark excluding its tributaries.*

## **Justification**

This proposed change with modification would provide subsistence users an additional gear type and should not result in an increased harvest. Salmon spawning in the tributaries and salmon staging near the mouths of tributaries in Lake Clark are vulnerable to overexploitation with beach seines. Since it is possible to encircle aggregates of spawning or staging salmon with a beach seine their use in certain areas could have a detrimental impact on specific populations. Restricting the use of beach seines to Lake Clark, and ensuring users are aware of the regulation prohibiting the taking of fish from waters within 300 feet of a stream mouth used by salmon will protect spawning or staging aggregates from possible over exploitation without placing an undue burden on subsistence users. Lake Clark National Park staff has indicated that even with the proposed modifications this regulation will provide opportunity for subsistence users to harvest fish with a beach seine in Lake Clark (D. Young, Lake Clark National Park, personal communication).

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## ADF&G PRELIMINARY COMMENTS PROPOSAL FP07-07: BEACH SEINES IN LAKE CLARK

**Introduction:** This proposal would allow for the use of beach seine gear to take salmon in Lake Clark and its tributaries. The preliminary federal staff recommendation is to support the proposal with the modification to limit use of beach seines to Lake Clark, recognizing that there is no fishing within 300 feet of a stream mouth used by salmon.

ADF&G has not taken a position on this proposal at this time, but offers these preliminary comments to help point out potential issues surrounding the proposal that will need further discussion and resolution. Based on the information we receive during the Regional Advisory Council meeting and from other sources, we will revise our comments accordingly and develop a position prior to the Federal Subsistence Board meeting.

**Opportunity Provided by State:** Current regulations normally provide sufficient opportunities for harvest of salmon for subsistence purposes in this area. Salmon may be harvested under state regulations for subsistence using set gillnets with no limit on the number harvested. Federal regulations are more restrictive and limit harvest with nets to residents of “resident zone” communities and of the park itself. Salmon escapements in this area have been very low in some recent years, especially 2000 through 2003 when Kvichak River drainage escapement goals were not met. Amounts reasonably necessary for subsistence, as determined by the Alaska Board of Fisheries, were not met in the drainage in those years. In these poor return years, people do need to fish harder in the Lake Clark area and may also obtain fish from other areas. It appears that the ability to achieve amounts reasonably necessary for subsistence is precluded by poor runs in some years. It is not clear what part, if any, the use of only set gillnets plays and whether additional gear types are necessary to provide for continued subsistence uses or to provide a meaningful preference for subsistence uses.

**Conservation Issues:** Kvichak River sockeye have been determined by the Alaska Board of Fisheries to be a stock of management concern and were previously designated a stock of yield concern. This proposal would not help address this management concern. The Alaska Board of Fisheries has dealt extensively with this issue and taken appropriate conservation actions to address the concern.

At this time, only use of set gillnets is allowed in the Lake Clark drainage for the harvesting of salmon. Beach seine gear does have some advantages over set gillnets as it would allow users to be more selective, reduce waste somewhat, and is not likely to increase the harvest. However, if allowed in spawning tributaries, beach seine gear is more likely to harvest groups of fish spawning in the same location. Given the management concern designation for Kvichak sockeye, a blanket provision for beach seine harvest may be inconsistent with sound principles of fish and wildlife management and conservation, depending on the level, pattern, and area of use. The draft federal staff analysis recommends limiting use of beach seines to the lake, recognizing there is a prohibition on fishing within 300 feet of a stream mouth used by salmon. Lake Clark is known to have shoreline spawning populations that may be of concern, but it is unlikely that beach seining would be very effective in the lake.

**Jurisdiction Issues:** ADF&G does not accept the claims of federal jurisdiction as contained in the section entitled “Extent of Federal Public Waters.” We have requested detailed maps of the area showing exactly what lands and waters are subject to the federal claim of jurisdiction and providing the basis for each claim, but have not received it yet. ADF&G may have additional comments after reviewing this material.

**Other Comments:** There is documentation of use of seining as a traditional method for subsistence in this area, but that information was omitted from previous versions of the draft federal staff analysis. We look forward to seeing this information included in later versions. The Federal Subsistence Board should not authorize a practice until it has discussed and demonstrated that the proposed method meets the customary and traditional use standard.

In other areas of the state, where beach seining is legal in freshwater for subsistence, fishermen often use gillnets as beach seines. Therefore, it should not be expected that approval of beach seines will eliminate concerns about loss of gillnets and ghost fishing. If it is not the intent to allow gillnets to be used as seines, but require people to obtain real beach seines, then a clear and specific set of beach seine specifications will need to be adopted.

ADF&G is concerned about how harvest information will be obtained if this proposal is adopted, because harvest data would not be captured under the current state permit system. ADF&G will not issue a permit for a gear type that is illegal under state regulations or one that would require the state to screen individuals for federal eligibility. Therefore, the harvest information will not be captured on state permits, as it normally would be. If the Federal Subsistence Board adopts this proposal they will have to provide for permitting, reporting, and monitoring of the fishery. Issuing multiple permits and requiring separate reporting will be confusing and cumbersome for users.

While ADF&G concurs that beach seines may allow the harvest to be more selective and may allow release of some non-target animals, we question whether it will take less effort, especially if limited to the lake (not including water within 300 feet of the mouth of any salmon stream) as recommended by the federal subsistence staff. Beach seines may allow harvest of more fish per unit of time, but they generally require more people to be engaged in fishing. A single person can fish a set gillnet, but a single person cannot effectively operate a seine. ADF&G would like to hear discussion at the Regional Advisory Council meeting on this issue.

**Conclusion:** The draft federal analysis did not provide substantial evidence that allowing this gear type is necessary to provide for continued subsistence uses or to provide a meaningful preference for subsistence uses. Since the federal subsistence fishery only applies to residents of the area, participation and harvest will likely be limited. Following the staff recommendation to limit use of beach seines to Lake Clark would reduce conservation issues associated with the new gear type, but may make it so ineffective that it offers no significant advantages to users.

ADF&G would also like to hear the Regional Advisory Council discussion on whether run size is the primary limiting factor on subsistence uses, or if current participation and harvest is actually limited by the inefficiency of using set gillnets. It is difficult to estimate how the use of additional gear types will affect harvest. However, adoption of this proposal would conflict with current state regulations, would be difficult to administer, and would impose additional permitting, reporting, and monitoring requirements on users and federal staff. Because of these problems, ADF&G would like to see information that supports the idea that current subsistence fishing opportunities are inadequate.

To help alleviate these problems, ADF&G suggests that the federal staff assist the proposal proponent in pursuing full consideration by the Alaska Board of Fisheries. We request that the Federal Subsistence Board not take action on this proposal until the Alaska Board of Fisheries has had an opportunity to address this issue.